

PDD-2 (WASATCH ROCK REDVELOPMENT) ZONE

A Planned Development District Under Cottonwood Heights Code Chapter 19.51

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19.52.010 Purpose.

The purpose of this ordinance (the “*ordinance*”) is to create a zone (the “*PDD-2 zone*”) to allow the development of property, located at approximately 6695 S. Wasatch Boulevard in Cottonwood Heights (the “*Property*”), and depicted in the development plan attached as Exhibit A (“*Development Plan*”). The project described in the Development Plan is a mixed-use project located in a manner and an environment that reflects attention to the Property’s topography, location, and specific features and sets forth the approved concepts for architectural, landscaping and urban design principles consistent with the Cottonwood Heights Code of Ordinances (the “*Code*”) The PDD-2 zone and project described in the Development Plan promotes the goals and objectives set forth in Section 19.51.020 of the Code and related general and master plans of the city. This ordinance is a “PDZ ordinance” as that term is defined in Code Section 19.51.020(C) and the PDD-2 zone is a Tier 1 Planned Development District project as described in Code Section 19.51.060. The Property as depicted on the Development Plan will be adequately served by public streets, municipal services and public utilities of adequate capacity.

19.52.020 Findings

Creation and adoption of the PDD-2 zone is based on, *inter alia*, the following findings by the city’s city council (the “*Council*”):

A. Development in the PDD-2 zone will support existing retail and commercial business in and near the Wasatch Boulevard area. Development in the PDD-2 zone will include residential and commercial properties. The development is located along major UTA bus corridors and adjacent to UTA bus stops with routes to and from many office and retail businesses.

B. The PDD-2 zone includes a mix of uses, including hotel, retail, office and other commercial uses together with residential uses. The different uses in the PDD-2 zone have a pedestrian

orientation and have been located to accommodate each of those uses. The multi-family residential units have access to a variety of pedestrian amenities on the site, including pools, plazas, walkways, etc.

C. The PDD-2 zone is compatible with the city's general plan, as it provides for residential and commercial uses that are compatible with the land use designations on the site and compatible with the commercial and public amenity features within and near the Property.

D. Site features, uses, public amenities and aesthetic characteristics required in the PDD-2 zone encourage pedestrian activity within the site, and provide safe access to multi-modal transportation opportunities at a scale appropriate for the context of the site.

E. The PDD-2 zone properly integrates the physical characteristics of the site with the proposed development by providing important trail connectivity through the Property. The building height, architectural massing, and spatial relationship of proposed structures is appropriate for the area, and is valuable reuse and redevelopment of a site no longer suitable for extractive or other sand and gravel operations.

F. With the design of an appropriate entry way and signal, the PDD-2 zone site is properly served by public streets and services.

19.52.030 Approval of Development Plan, Phasing.

The Development Plan is approved by this ordinance. Development of the uses, densities and configurations depicted in the Development Plan may be done in phases. Any subsequent modifications to the phasing plan shall be subject to review and approval by the Community and Economic Development Director or a designee. Site plans for each phase and subdivision plats shall conform to the development requirements contained herein and applicable standards in the Cottonwood Heights municipal code, as well as densities, building height, massing, site layout and uses in the Development Plan. Prior to development, each phase shall be reviewed and approved by the Architectural Review Commission (ARC) to ensure compliance with this ordinance, the attached Development Plan and project-specific design guidelines, all relevant provisions of the Cottonwood Heights Municipal Code, City Design Guidelines, and other relevant site plan requirements. Approval of subdivision plats may be approved administratively by the Community and Economic Development Department subject to Title 12 of the Cottonwood Heights Municipal Code. In the case that substantial discrepancies are discovered during review of site plans or subdivision plats, applications may be referred to the Planning Commission for final consideration. Substantial changes to the approved PDD-2 ordinance or Development Plan shall require an amendment to the approved PDD-2 zone subject to review and approval by the Planning Commission and City Council, as specified in Title 19.51.

19.52.035 Permitted Uses.

The permitted uses within the PDD-2 zone shall include:

1. Multi-family residential dwellings;
2. Retail;
3. Office;
4. Restaurant;
5. Hotels;

6. Entertainment Venues.

19.52.040. Development requirements.

Property in the PDD-2 zone shall be developed in conformance with this ordinance, including the Development Plan attached as Exhibit A and incorporated herein by reference; the applicable requirements of Code Chapter 19.51 (Planned Development District) (“*Chapter 19.51*”), including all applicable base Tier 1 regulations set forth in Table 1 of Chapter 19.51 attached as Exhibit B; the balance of the Code, including Title 12 (Subdivisions); all applicable APWA standards; the International Building Code; the International Fire Code; such other city standards as may be applicable to development in the PDD-2 zone as determined by the city’s Development Review Committee; and the following additional standards:

A. Height. Building heights shall be no taller than as described in the Development Plan and measured from the average grade elevation of Wasatch Boulevard per 19.51.060(B)(3).

B. Setbacks. The setbacks for all buildings in the PDD-2 zone shall be as generally depicted in the Development Plan. The western boundary of the PDD-2 zone site shall be considered the front yard.

C. Units. The PDD-2 zone shall contain not more than 419 residential dwelling units. No additional residential units shall be added to the PDD-2 zone without a Council-approved amendment to this ordinance and revision to the Development Plan.

D. Coverage. The maximum lot coverage for in the PDD-2 zone shall be as depicted in the Development Plan.

E. Lot dimensions. Subject to Section 19.52.030, the minimum lot dimensions shall be as generally depicted in the Development Plan.

F. Storefronts and access (retail and commercial areas). A minimum of 50% of the height and width of the ground-floor frontage of retail and commercial buildings shall consist of windows, window displays, doors, or a combination thereof. Such windows, window displays, or doors shall be provided between two and eight feet above grade adjacent to the principal building frontage.

G. Parking. The PDD-2 zone shall include stalls per unit as shown in the Development Plan. All required accessible parking stalls shall be designed in accordance with applicable building code standards and the provisions of Chapter 19.80. – Off Street parking Requirements. Any parking spaces located within the city right-of-way will require a maintenance agreement reasonably acceptable to the city for snow removal, maintenance and repair of such parking areas. Shared parking is being utilized to create a more efficient use of land. As such, agreements must be in place prior to building permit approval providing formalized shared parking and cross access agreements. All proposed proprietary parking is subject to review and approval by the Community and Economic Development Department.

H. Amenities. Amenities in the PDD-2 zone shall be as generally depicted in the Development Plan and shall include the following:

1. Public trails;
2. Plazas, courtyards, enhanced crosswalks and water features;
3. Public pedestrian walkways, sidewalks, bicycle lanes; and
4. Public and private common green areas.

I. Pedestrian circulation. Pedestrian circulation in the PDD-2 zone shall comply with the following requirements:

1. Sidewalks and pedestrian walkways shall be provided in accordance with a submitted pedestrian circulation plan approved as part of the PDD-2 zone.

2. Minimum requirements for public sidewalks in the PDD-2 zone include:

(a) Continuous sidewalks with a width of at least six feet shall be located along collector and arterial public streets; and

(b) Sidewalk(s) along the private street(s) shall be located as shown on the Development Plan.

(c) Minimum requirements for private pedestrian walkways in the PDD-2 zone include:

(a) Hard-surfaced sidewalks with a minimum width of five feet;

(b) Readily visible sidewalks free of encroachment by parked vehicles;

(c) Paving consisting of concrete or other masonry materials differentiated from the driveway and parking areas through the use of color, texture, or materials;

(d) Shade provided by deciduous shade trees spaced at one per 30 linear feet of walkway or building canopy; *provided, however*, that shade trees will not be required and may not be required to be installed within the utility easement in favor of the Metropolitan Water District currently located in the PDD-2 zone unless approval is granted by Metropolitan Water District;

(e) Lighting with pedestrian-scaled fixtures; and

(f) A six-foot wide pedestrian trail shall be located through the project beginning at Gun Club Road and transecting the Development Plan and terminating at the south property line (“the Dry Hollow Connector Trail”) and shall be developed with an appropriate surface as shown on the Development Plan. The Dry Hollow Connector Trail shall be improved and maintained at the operator’s cost; shall be perpetually open to the public, allowing the public to traverse the site from one side to the other; and may in the future be included in a public trail system sponsored by the city. If requested by the city as part of a city-sponsored trail system involving trail improvements and a trail easement on either or both sides of the site, so long as one side connects to a trailhead or access point accessible to the general public, the then owner of the project shall grant a non-exclusive public trail easement to the city in the location of the Creek Trail, in which event the city shall assume responsibility for the trail improvements and their maintenance. The form of such easement grant shall be one that is reasonably proposed by the city and reasonably acceptable to such owner. Trail users shall be permitted to utilize shared parking areas of the proposed development

3. In order to create a safe pedestrian environment, multifamily residential buildings shall be placed and sited so that all required internal sidewalks are in view of at least one unit’s living area windows.

4. Internal sidewalks parallel and adjacent to a street or drive aisle shall be raised or separated from the street or drive aisle by a raised curb, landscaping or other physical barrier. If a raised internal sidewalk is used, the ends of the raised portions must be equipped with curb ramps.

5. When adjacent to perpendicular, head-in, or diagonal parking, a pedestrian sidewalk must be increased to a width of seven feet when parking is located on one side, and a minimum width of nine feet when parking is located on both sides.

J. Open space. Open space shall be provided in the form of natural areas meriting preservation, landscaping, pedestrian plazas/courtyards, trails, atriums and/or other significant spaces open to the public. Public open space shall include trails and such other portions of the project that are so-identified on the Development Plan. Vehicular circulation and parking shall not qualify as open space but are required to meet parking and landscaping requirements. Open space amenities shall be approved and installed in a timely manner and consistent with development of

adjacent project phases. During phase one of development, an open space phasing plan shall be submitted to the city and reviewed by the city's Architectural Review Commission for approval.

K. Landscaping. Prior to the use or occupancy of any premises in the PDD-2 zone, the following landscaping requirements shall be met:

1. At least 60% of the landscaped area shall be vegetated, subject to vegetation and landscaping limitations related to the Metropolitan Water District aqueduct easement..

2. Provide a ground-level landscaped area equal to at least ____% of the gross land area in the PDD-2 zone.

3. For landscaped areas designed as buffers, setbacks or visual backdrops, 40% of the area shall be vegetated with a combination of groundcover, vines, shrubs, and trees. These areas must be at least eight feet wide.

4. For large paved pedestrian spaces such as courtyards or plazas, a 12-foot tall/two-inch caliper conifer or a 15-gallon/eight-foot tall deciduous tree shall be required for every 200 square feet of paved area. A 50% reduction in the number of trees in such areas may be permitted if at least 25% of the ground plane is vegetated with potted plants, vines, shrubs, or groundcover. Landscaping plans for all paved spaces and pedestrian areas shall be subject to review and approval by the Architectural Review Commission

5. Landscaping shall be installed in accordance with the Development Plan, or as otherwise outline in this Chapter.

6. Except as otherwise provided in section K.4., all new deciduous trees shall have a minimum caliper size of two inches and all evergreen trees shall be planted at a minimum height of five (5) feet.

L. Access/Cross-Parking. Access to all development in the PDD-2 zone shall be constructed as depicted in the Development Plan. Covenants, conditions, restrictions and agreements reasonably acceptable to the city shall be recorded against the Property to provide for cross-access and cross-parking among and between the lots and uses within the PDD-2 zone.

M. Site Reclamation. Site reclamation shall occur as set forth in the Development Plan. Prior to the issuance of a building permit for a portion of the project, final studies and engineering drawings pertaining to such portion of the project will be submitted to and approved by the city engineer as reasonably requested by the city engineer.

19.52.050 Development and architectural standards.

Development shall be allowed as generally depicted in the Development Plan subject to compliance with all applicable city standards, ordinances, and Tier 1 requirements as specified in Title 19.51.060 and the accompanying "Table 1" unless otherwise expressly provided herein. Development and architectural and site design standards for each project phase and all open or common areas shall be in compliance with the intent of the Development Plan, the Gateway Overlay District (Chapter 19.49), and the supplemental design guidelines outlined in Exhibit "B", which standards are approved architectural examples and illustrations for the entire project to be located on the Property. The use of aluminum and vinyl siding shall be prohibited. Materials depicted in the Development Plan or described in the Supplemental Design Guidelines shall be allowed. Development in the PDD-2 zone is subject to all applicable sensitive lands development standards detailed in Title 19.72, and each phase of the development shall be required to properly complete requisite site studies and reports and comply with findings of required sensitive lands studies (e.g. slope stability analyses, fault hazard studies, liquefaction studies, soils reports, etc.).

Such requirements shall be complete before building permits are issued for each phase of development and are subject to review and approval by the city's Development Review Committee (DRC).

19.52.060 BMR Units *(This section is subject to consideration of the pending text amendment to modify PDD BMR requirements. Further review will be conducted at the conclusion of that process).*

A.

B. For purposes of this Subsection, the following definitions shall be used:

1. “Affordable.” Housing costs that are affordable to households earning not more than eighty percent (80%) of the AMI. Housing costs that do not exceed thirty percent (30%) of the household income of a qualifying household shall be deemed affordable hereunder.

2. “Area median income” or “AMI.” As described in the city's affordable housing plan approved November 19, 2019 by GSBS Consulting (the “Housing Plan”), area median income is the annual median income of households within the city. AMI shall be updated annually using the most recent U.S. Census Bureau statistics for the area within the city, using the methodology used in the Housing Plan or such other methodology as both the residential project operator and the city approve in writing as an appropriate substitute protocol for determining the AMI. The residential project operator shall reimburse all costs reasonably incurred by the city to engage experts to advise the city concerning such updates, so long as the city gives the operator reasonable prior written notice of its intent to engage such expert.

3. “Bedroom.” A room designated to be used for sleeping purposes and which contains one or more closets and meets all applicable city building code requirements for light, ventilation, sanitation and egress.

4. “BMR units.” Residential dwelling units that are BMR units required by Chapter 19.51 and meet the occupancy guidelines approved by the city.

5. “Household.” All related and unrelated individuals occupying a unit.

6. “Market units.” Residential dwelling units in the PDD-2 zone that are not BMR units and are subject to rental at full market rates.

7. “Operator.” The owner or manager of the BMR units and market units, respectively.

8. “Qualifying household.” A household earning not more than eighty percent (80%) of the AMI.

C. Ten percent (10%) of the total number of residential dwelling units within the PDD-2 zone shall be BMR units; *provided, however*, that the BMR units in the PDD-2 zone will be located in the multi-family apartment building(s) and not in the residential condominium building(s). Based on the current Development Plan, 38 of the residential dwelling units in the PDD-2 zone shall be BMR units. BMR units shall be rented to qualifying households at a price which is affordable. The maximum rent shall be adjusted annually in accordance with the changes to the city's AMI. As applied to qualifying households, the lease term shall be not less than one year and shall be renewable at the tenant's option if the tenant remains a qualifying household and has complied with the terms and conditions of the lease.

D. BMR units developed in accordance with the requirements of this chapter are not included in the density calculation for the project and shall not be subject to the city's impact or

similar fees. Further, in order to assure livability, all BMR units shall be no smaller than the minimum gross square footages for the following unit types:

1. Studio – 500 sq. ft. minimum;
2. 1-bedroom unit – 650 sq. ft. minimum;
3. 2-bedroom unit – 900 sq. ft. minimum;
4. 3-bedroom unit – 1,150 sq. ft. minimum.

E. The operator of the BMR units shall reasonably determine which units are BMR units, provided that each of the four unit types described above shall be included among the project's BMR units in the same proportion as each of such unit types is included among the project's market units unless otherwise agreed by the city in writing based on a competent, third-party market analysis.

F. BMR units may differ from the project's market units with regard to interior amenities and gross floor area, provided that:

1. Such differences are not apparent in the general exterior appearances of the project's dwelling units;
2. Such differences do not include insulation, windows, heating systems and other improvements related to the energy efficiency of the project's residential dwelling units; and
3. The square footage of the BMR units shall not be less than the minimum square footage requirements set forth above.

G. All BMR units shall be constructed and made ready for occupancy on approximately the same schedule as the project's market units; *provided, however*, that certificates of occupancy (whether temporary or permanent) for the last ten percent (10%) of the market units shall be withheld by the city until certificates of occupancy have been issued for all of the BMR units. If market units are to be developed in phases, all BMR units shall be developed on a similar schedule. In the required schedule for phased development, details shall be included for all BMR units.

H. The operator of the BMR units shall:

1. Use commercially reasonable efforts to advise the public of the existence and possible availability of the project's BMR units, including, without limitation, annually so informing public and quasi-public bodies in Salt Lake County which provide affordable housing counseling or similar services to qualifying household populations, such as the Housing Authority of the County of Salt Lake and Utah Community Action.

2. Maintain a list, and allow the city to maintain a list, of those who have indicated interest in renting a BMR unit in the project after the operator has verified each such person's status as a qualifying household.

3. Promptly contact the planning director and such persons, based on their relative priority on such lists, when a BMR unit becomes available to rent.

4. Use commercially reasonable efforts to endeavor to rent a vacant BMR unit to a qualifying household tenant before renting the vacant BMR unit to a non-qualifying household tenant, including holding such BMR unit available for at least 45 calendar days (the "*Hold Period*") while seeking a qualifying household tenant.

(a) The Hold Period shall commence immediately upon the operator receiving notice from the tenant of a BMR unit indicating the tenant's intent to not renew the lease. The Hold Period shall not expire before the subject unit becomes vacant and ready for occupancy by a replacement tenant.

(b) If a qualifying household tenant is not located within the Hold Period, then the vacant BMR unit may be rented to a non-qualifying household tenant for a lease term not exceeding six (6) months in duration, whereupon the BMR unit shall again be made available for rent to qualifying household tenants for a new 45-day Hold Period before it may be rented to a non-qualifying household tenant as provided in this Section.

(c) Because the maximum lease term to a non-qualifying tenant is half the duration of the standard lease term to a qualifying tenant, it is anticipated that the rental of BMR units to non-qualifying household tenants (in the absence of available qualifying household tenants as provided in this Section 4) will result in more frequent “roll-over” of tenants in the BMR units, which in turn will necessitate more frequent readying of the BMR units for occupancy by replacement tenants. To provide a source of maintenance funds to the operator to repair any damage, clean carpets, etc. of a vacated BMR unit to make the unit ready for occupancy by a replacement tenant, the rental for a BMR unit charged to a non-qualifying household tenant may exceed the rental charged to a qualifying household tenant, but only to the extent reasonably necessary to generate such maintenance/repair funding for the BMR units after taking into account other sources of maintenance funding such as forfeited deposits from the prior tenant(s). The city shall be entitled to verify that such additional rental amounts are both reasonable and being used only to defray such increased maintenance/repair costs (also called “direct unit turn costs”) of the BMR units, and the operator shall cooperate in such verification process by providing a ledger of (i) the direct unit turn costs associated with the tenant replacement of BMR units if rented to non-qualifying household tenants, and (ii) the increased rental amounts charged to such non-qualifying households occupying BMR units.

I. At the end of each calendar quarter, the operator shall file with the planning director a written report in such form as the planning director may reasonably require, including a log of the project’s BMR units with details on rents charged, tenant qualifications and rental status of each BMR unit. The city shall be entitled to further verify compliance with this ordinance at any time or from time to time, and the operator shall reasonably cooperate in such verification process.

J. Further conversion of rental units to for-sale units shall require a Council-approved amendment to this ordinance, subject to all applicable city hearings and approvals.

19.52.070 Outdoor lighting.

A. Outdoor lighting shall be in compliance with Chapter 19.77 – Outdoor Lighting.

19.52.080 Signage.

The type, material, color and location of signage in the project shall comply with the requirements set forth in Section 19.51.060(B)(11) and Chapter 19.82 (Signs) of the Code, as well as the sign locations approved in the Development Plan, which approval includes sign types, dimensions and numbers approved for this project. Final signage plans shall be reviewed by the Architectural Review Commission to determine compliance with this ordinance and the Development Plan. The ARC will review all signs for design compliance, location, size and other ‘time, place, and manner’ considerations.

19.52.090 Environmentally Sustainable Design

The project shall be developed utilizing sustainable development practices included in the Development Plan. Additional sustainable development practices are encouraged and will be reviewed on a case-by-case basis by the Community and Economic Development Department and city sustainability staff.

19.52.100 Reversionary Clause.

If a building permit is not issued for the principal improvements to be constructed on the property described in this PDD-2 zone within ten (10) years after the effective date of this ordinance, this ordinance shall be deemed retroactively repealed and the property located in the PD zone created by this ordinance shall revert back to its zoning designation in effect immediately prior to the passage of this ordinance (or the equivalent of such zoning designation that is in existence on the date of such reversion). An applicant may request an extension for one additional year provided that (A) the extension is applied for prior to the fifth anniversary of the PDD-2 zone ordinance; and (B) the director determines that good cause exists for the granting of such requested extension.

19.52.110. Contrary law.

Upon approval in accordance with the provisions of this chapter, the Property shall be rezoned, as a legislative act of the city, to a PDD-2 zone, which supersedes chapter 19.51 of the Code and other conflicting provisions in the Code and related policies and regulations. This ordinance is subject to any contrary federal or Utah state law.

EXHIBIT A
[Development Plan]

EXHIBIT B
[Design Guidelines]